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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,702	09/24/2001	Umrao S. Mayer	723-1177	4292

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EXAMINER
MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/960,702	MAYER ET AL.	
	Examiner	Art Unit	
	C. Marks	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,7-10 and 12-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,7-10 and 12-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The objection to the specification has been withdrawn. All trademarks have been capitalized and therefore the objection is moot.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 10, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong (US Patent No. 6,102,802).

Armstrong discloses the use of a game controller in an electronic game with a plurality of possible actions (Abstract). A method is disclosed that detects user input for requesting an animated action (Column 3, lines 26-42) from at least one control element. An adrenaline value is then read from a control element based upon the pressure (level of aggression shown by user) applied to a button in order to control action intensity of images displayed (Column 4, lines 35-48). Such character parameters controlled by the action intensity could be the speed in which the character walks or runs (Column 3, lines 10-16). The action is selected from a

plurality of possible actions based on the adrenaline value as the more aggressive the player pushes the button, the faster the character will move (Column 3, lines 10-16). Armstrong does not disclose all the specifics of the games in which the controller can be used. It is known that to properly control gaming characters it is often required that a number of buttons be used (i.e. jump with one control element, and run left with another). Thus, it would be obvious to a skilled artisan that the analog control element used to read the adrenaline value could be different from another control element requesting animated action. Further, using different buttons for different functions or differentiating the purposes of buttons would be obvious to one of ordinary skill in the art who would be motivated to do so in order to provide a more user-friendly input device for the game. By separating functions, the user would have a better understanding of what control does what, thus increasing user competency and satisfaction with the device.

The pressure sensitive switch is an analog switch (Column 3, lines 1-9). The character axiomatically has initial action parameters defined as Armstrong discloses that the action intensity is controlled and changed by the depression of the pressure switch (Column 3, lines 10-14). The initial parameters would then be adjusted based on the adrenaline value as it is controlled by scaling the relative position (level of aggression) of the analog button at the time of the action requested by the player (Column 3, lines 10-17).

Based upon the disclosure of Armstrong detailed above, one of ordinary skill in the art would understand that the parameter axiomatically influences the success or failure of the actions. In Application of the teachings garnished from the disclosure of Armstrong, one of ordinary skill in the art would understand that when applied to a game, for example, wherein the characters are racing, the adrenaline level that controls the parameter associated with the character will also influence the success or failure of the action. Furthering the race example, the parameter of the adrenaline value would control the speed in which the character would run

which would most definitly influence the success or failure of the action as the greater the adrenaline value, the greater the speed of the character and the more chance of success in running. Likewise, the less the adrenaline values, the slower the speed of the character and the greater chance of failure in running.

Claims 3-4 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over NHL 2001 (Electronic Arts) in view of Armstrong (US Patent No. 6,102,802).

What Armstrong discloses has been discussed above and is incorporated herein.

Armstrong discloses the method of controlling a video game for use in such a game where a player may need to walk or run based upon situation (Column 3, line 10-17). Armstrong discloses that the controller is used to control varying intensities for character performance (Column 4, line 35-48). Though Armstrong does not explicitly disclose the use of the controller in a sports game, it would be obvious to one of ordinary skill in the art to use the disclosed controller in such a game genre as it is well known that sports games are known to use situations where characters are required to perform with varying intensities as disclosed by Armstrong. Further, Armstrong also discloses that his controller is based upon the use of analog control (Abstract) and thus easily could be used in games supporting the analog control feature.

NHL 2001 is a game that supports analog control and thus could easily incorporate the teachings of Armstrong wherein pressure sensitive means could be used to control the intensity of character movement. Furthermore, NHL 2001 incorporates a momentum feature based upon character movement that can further affect game play (NHL 2001, Plumb, paragraph 2). As this momentum is a changing parameter of the game and one of ordinary skill in the art would understand the relation between momentum and intensity, it would have been obvious to

mimic that of real sports events and use the intensity control of Armstrong to influence the momentum disclosed in NHL 2001.

Likewise, one of ordinary skill in the art would be motivated to apply the teachings of Armstrong to the analog controls of NHL 2001 to provide the player with better and more realistic control of the available character options. One of ordinary skill in the art would be motivated to make this incorporation in order to provide the player with a more realistic feel of intensity control as disclosed by Armstrong and thus feel more excitement and realism from the game. These goals, that would be achieved by incorporating the more realistic controls of Armstrong, are well known goals to those of ordinary skill in the art of sports games, and thus would provide motivation to incorporate said features, as game designers know that for games to be successful, an important component is realism.

Claims 5, 7-9, 14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over NBA Live 2001 (Electronic Arts) in view of Armstrong (US Patent No. 6,102,802).

What Armstrong discloses has been discussed above and is incorporated herein.

Armstrong discloses the method of controlling a video game for use in such a game where a player may need to walk or run based upon situation (Column 3, line 10-17) such as is required in basketball. Armstrong discloses that the controller is used to control varying intensities for character performance (Column 4, line 35-48). Though Armstrong does not explicitly disclose the use of the controller in a basketball game, it would be obvious to one of ordinary skill in the art to use the disclosed controller in such a game genre as it is well known that basketball games are known to use situations where characters are required to perform with varying intensities as disclosed by Armstrong. Further, Armstrong also discloses that his

controller is based upon the use of analog control (Abstract) and thus inherently could be used in games supporting the analog control feature.

NBA Live 2001 discloses the use of an analog control and thus could incorporate the teachings of Armstrong wherein pressure sensitive means could be used to control the intensity of character movement. This intensity then axiomatically would affect the shooting percentage, foul percentage, and blocking percentage of the player as these are well known statistics of player performance that are based partly upon the intensity in which a player performs.

Therefore, one of ordinary skill in the art would be motivated to apply the teachings of Armstrong to the analog controls of NBA Live 2001 to provide the player with better control of the character options and performance. One of ordinary skill in the art would be motivated to make this combination in order to give the player a more realistic feel of intensity control as disclosed by Armstrong and thus feel more excitement and realism from the game. These goals, that would be achieved by incorporating the more realistic controls of Armstrong, are well known goals to those of ordinary skill in the art of sports games, and thus would provide motivation to incorporate said features, as game designers know that for games to be successful, an important component is realism.

Response to Arguments

Regarding Applicant's argument that Armstrong does not allow for different buttons to do manipulations and adrenaline, the Examiner respectfully disagrees. Armstrong does not disclose all the specifics of the games in which the controller can be used. It is known that to properly control gaming characters it is often required that a number of buttons be used (i.e. jump with one control element, and run left with another). Thus, it would be obvious to a skilled artisan reading the Armstrong disclosure with a knowledge of how game characters are

controlled (i.e. Super Mario) that the analog control element used to read the adrenaline value as disclosed in Armstrong could be different from another control element requesting animated action (such as the arrow to run left). Further, using different buttons for different functions or differentiating the purposes of buttons would be obvious to one of ordinary skill in the art who would be motivated to do so in order to provide a more user-friendly input device for the game. By separating functions, the user would have a better understanding of what control does what, thus increasing user competency and satisfaction with the device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703)-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmm
July 8, 2004

JOHN M. HOTALING, ..
PRIMARY EXAMINER